



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Doni L. Mooberry  
901 Kentucky Street, Suite 202  
Lawrence, KS 66044-2855

**JAN 13 2016**

RE: MUR 6896

Dear Ms. Mooberry:

On November 4, 2014, the Federal Election Commission notified Margie Wakefield and her campaign committee, Margie Wakefield for Kansas and you, in your official capacity as treasurer (the "Committee"), of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended, and Commission regulations. On January 11, 2016, the Commission found, on the basis of the information in the complaint, and information provided by the Committee, that there is no reason to believe that Margie Wakefield violated 52 U.S.C. § 30120(a) and 11 C.F.R. §§ 110.11(a)(1) and (b)(1). Also on this date, the Commission dismissed the allegation that the Committee violated 52 U.S.C. § 30120(a) and 11 C.F.R. §§ 110.11(a)(1) and (b)(1). Accordingly, the Commission closed the file in this matter on January 11, 2016.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Ruth Heilizer, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Daniel A. Petalas  
Acting General Counsel

A handwritten signature in black ink, appearing to read "Jeff S. Jordan", is written over the typed name and title.

BY: Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination and  
Legal Administration

Enclosure: Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Margie Wakefield for Kansas  
and Doni Mooberry Slough as treasurer  
Margie Wakefield

MUR 6896

I. INTRODUCTION

This matter was generated by a complaint filed by Cheryl Reynolds on October 29, 2014, alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations by candidate Margie Wakefield and Margie Wakefield for Kansas and Doni Mooberry Slough in her official capacity as treasurer (collectively the "Committee").<sup>1</sup> It was scored as a relatively low-rated matter under the Enforcement Priority System, a system by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

II. FACTUAL AND LEGAL ANALYSIS

Complainant Cheryl Reynolds alleges that the Committee produced and distributed yard signs lacking the appropriate disclaimers. Compl. at 1-2. The Complainant asserts that the allegedly defective yard signs were displayed "all over the district." *Id.* The Complaint includes a page from the Committee's October Quarterly Report disclosing a disbursement of \$6,747.34 for "campaign lawn signs." *Id.*; *see also id.*, Attach. 1. Also appended to the Complaint are copies of what appear to be six yard signs displaying the campaign slogan "Margie Wakefield for Congress," which lack a statement that the Committee had paid for them, *see id.*, Attach. 2 at 1-3.<sup>2</sup> Therefore, the Complainant concludes that the Committee's campaign signs violated the

<sup>1</sup> In 2014, Wakefield unsuccessfully sought to represent Kansas's Second Congressional District.

<sup>2</sup> The Complainant also attaches, without explanation, what appear to be two Facebook pages for "Margie Wakefield for Kansas," *see id.*, Attach. 2 at 4-5.

1 Act and Commission regulations, which require disclaimers on public communications paid for  
2 by political committees, including “general public political advertising,” such as yard signs. *Id.*  
3 at 1-2.

4 The Committee asserts that under Kansas state law<sup>3</sup> campaign yard signs are not required  
5 to include “‘paid for by’ attribution” language and, therefore, the Committee acted in good faith  
6 when it omitted the language from its yard signs. Resp. at 1-2.<sup>4</sup> Once it was informed of the  
7 Commission’s “paid for by” requirement, the Committee states that it took remedial action by  
8 having its staff affix labels with appropriate disclaimers to the yard signs. *Id.* The Committee  
9 includes a copy of a campaign sign with a label bearing the statement “Paid for by Margie  
10 Wakefield for Kansas.” *Id.*, Attach. at 1-2.

11 Political committees, including candidate committees, which make disbursements for a  
12 public communication, must include a disclaimer stating that the Committee paid for the  
13 communication. 52 U.S.C. § 30120(a); *see also* 11 C.F.R. §§ 110.11(a)(1) and (b)(1). A public  
14 communication is “a communication by means of any broadcast, cable, or satellite  
15 communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone  
16 bank to the general public, or any other form of general public political advertising.” 52 U.S.C.  
17 § 30101(22); *see also* 11 C.F.R. § 100.26. Signs are encompassed by the term “any other form  
18 of general public political advertising,” although they are not specifically enumerated under  
19 52 U.S.C. § 30101(22) or 11 C.F.R. § 100.26. *See* 11 C.F.R. § 110.11(c)(2)(i) (specific reference

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<sup>3</sup> As authority, the Committee cites to an FAQ posted by the Kansas Governmental Ethics Committee, available at <http://ethics.ks.gov/CFAForms/FrequentlyAskedQuestions.html>, which states that Kansas state law does not require “paid for by” language for campaign yard signs. *Id.* at 1.

<sup>4</sup> The Committee also observes that the definition of “public communication,” as set forth in 11 C.F.R. § 100.26, does not specifically address yard signs. *Id.* at 1.

1 to “signs” in a provision setting out more specific requirements for disclaimers on printed  
2 communications); *see also* MUR 6032 (Tom Leatherwood for Congress) Factual and Legal  
3 Analysis (dismissal of low-rated matter involving, in pertinent part, the lack of disclaimer on  
4 yard signs that the Committee later corrected).

5 It appears that the Committee failed to affix appropriate disclaimers on its yard signs as a  
6 possible result of its misinterpretation of the Act and Commission regulations. However, the  
7 signs contained information identifying them as Wakefield campaign signs and, therefore, it is  
8 unlikely that the public would have been misled. In addition, once the Committee was made  
9 aware that its signs required disclaimers, it remedied its error by having labels bearing the  
10 requisite “paid for by” language affixed to the signs.

11 Therefore, in light of the Committee’s remedial action, the Commission exercises its  
12 prosecutorial discretion, pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985), and dismisses the  
13 allegations that Margie Wakefield for Kansas and Doni Mooberry Slough, in her official capacity  
14 as treasurer, violated 52 U.S.C. § 30120(a) and 11 C.F.R. §§ 110.11(a)(1) and (b)(1). In  
15 addition, since there is no evidence to suggest that Margie Wakefield was responsible for the  
16 missing disclaimers, the Commission finds no reason to believe that she violated 52 U.S.C.  
17 § 30120(a) and 11 C.F.R. §§ 110.11(a)(1) and (b)(1).